

# Planning Committee

13 October 2023

Agenda item number 8

## Tree Preservation Order at Tealby, 78 Lower Street, Horning

Report by Historic Environment Manager

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### Summary

A Provisional Tree Preservation Order (TPO) has been served on a tree at Tealby, 78 Lower Street, Horning. A single objection to the TPO was received.

Members will consider whether to confirm the TPO.

### Recommendation

That the TPO is confirmed.

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## 1. Background

- 1.1. As part of its obligation as a Local Planning Authority (LPA), the Broads Authority is required to serve Tree Preservation Orders (TPOs) on trees which are considered to be of amenity value and which are under threat. There are criteria set out in The Town and Country (Tree Preservation) (England) Regulations) 2012 against which a tree must be assessed in order to determine whether it meets the threshold for protection.
- 1.2. This report explains how this process has been carried out in respect of a Scots Pine at Tealby, Lower Street, Horning (BA/2023/0011/TPO).

## 2. Tree Preservation Order procedure

- 2.1. There are two prerequisites which must be met for a tree to be considered for protection through a TPO. Firstly, the tree must be of amenity value, and secondly it must be under threat. There are many trees in the Broads (and elsewhere) which are of sufficient amenity value to qualify for TPO status, but which are not protected as they are not under threat. The TPO process is not a designation like, for example, a Conservation Area which is made following an assessment of particular character but is effectively a response to a set of circumstances.
- 2.2. Typically, the consideration of a tree for a TPO designation will arise in connection with either a Section 211 notification, notifying the authority of proposed works to trees within a Conservation Area, or a development proposal either through a formal

planning application or a pre-planning application discussion. At a site visit or when looking at photos or other visual representation, a case officer may see there is a tree on the site which is potentially of amenity value and under threat from the proposed development. The case officer will consult the Authority's arboricultural consultant, who may need to investigate further and, if so, will visit the site and make an assessment of the tree under the 2012 Regulations. If the tree is considered to meet the criteria in the Regulations, then a provisional TPO will be served.

- 2.3. After a provisional TPO has been served there is a consultation period, which gives the opportunity for the landowner and other interested parties to comment on it.
- 2.4. The Regulations require that a provisional TPO must be formally confirmed by the LPA within 6 months of it being served; if it is not confirmed then it will lapse automatically.
- 2.5. The Authority's scheme of delegation allows provisional TPOs to be served and for non-controversial TPOs (i.e. where no objections have been received) to be confirmed by officers under delegated powers.
- 2.6. Where an objection has been received as part of the consultation process, a report is taken to Planning Committee for Members to decide whether they consider a site visit is required in order to view the tree prior to making a decision on the confirmation.

### 3. The provisional Tree Preservation Order at Tealby, 78 Lower Street, Horning

- 3.1. Tealby is a residential property to the west of Lower Street, Horning. It is located on a small island with bridged access containing a small number of residential properties, with the River Bure immediately to the west and an inlet to the east. It is within the Horning Conservation Area. The tree under consideration is situated to the south-east of the site.
- 3.2. The subject tree is an early-mature / mature Scots pine. The tree has high amenity value and contributes to the visual amenity of the site and surrounding landscape. It is considered to have good growth potential and to be in good condition, with some small areas of dead wood that could be dealt with through appropriate works.
- 3.3. A Section 211 notification (application for Tree Works BA/2023/0177/TCAA) was submitted by the owners. The proposal was to carry out various works to 8 trees on the site, including the removal of the Scots Pine. The LPA consented in part to the works, with all the proposed works being approved apart from the removal of the Scots Pine, which was refused.
- 3.4. On 25 May 2023 a provisional TPO was served on the tree.
- 3.5. On 8 June 2023 an email objecting to the TPO was received from the applicant. The grounds of the objection are that the tree presents a danger to the neighbouring

property and attempting to make it safe without felling would place an unreasonable burden on the applicant.

- 3.6. On the 15 June 2023 the Authority’s arboricultural consultant met with the applicant’s tree surgeon to discuss what works to the tree would be acceptable. These included the removal of the second lowest limb and the reduction in length of the lowest limb by three metres, as well as the removal of the deadwood. This will reduce any pressure on the root system and the arboricultural consultant considered this to be a reasonable approach.
- 3.7. A Section 211 notification (application for Tree Works BA/2023/0365/TPOA) for these works was received by the Authority on 20 September. The Authority’s arboricultural consultant has advised that he has no objection to the proposed works so the application is likely to be approved.
- 3.8. The applicant, however, has advised that he still has a fundamental concern regarding the safety of the tree and would like to see it removed. The TPO is therefore still considered appropriate despite the works that are likely to be approved to it as it remains under threat.
- 3.9. The Tree Preservation Order will lapse if it is not confirmed by 25 November 2023.
- 3.10. At the Planning Committee meeting on 15 September 2023, Members decided that a site visit was not necessary.

## 4. Next steps

- 4.1. The provisional TPO is reported to Planning Committee for its consideration.
- 4.2. The Authority’s arboricultural consultant considers that the tree detailed in this report is worthy of a TPO due to its amenity value and growth potential, as explained at 3.2 above. An objection has, however, been received from the applicant and the following Statement of Case sets out those objections formally, along with the response from the arboricultural consultant.

No.	Representation	Response
1.	The objector is particularly concerned that, given the low lying and wet nature of the ground, the root system may be essentially flat and the tree may not be stable. Our primary concern is for safety, and we have therefore asked our tree surgeon to review the condition of the	Having inspected the tree again following the most recent email from the owner, it is clear that the tree has grown with the lean, likely in response to an adjacent tree that has subsequently been removed. The morphology of the tree confirms this. Given this the tree will have adapted its root growth to accommodate the lean. I am still of the opinion that the

No.	Representation	Response
	tree and advise further on what works may be required.	tree is not an immediate risk to persons and property in the immediate vicinity and feel that it is appropriate to confirm the order.
2.	The tree presents a danger to the neighbouring property, and attempting to make it safe without felling it would place an unreasonable burden on ourselves.	As stated above, the morphology of the tree indicates that it has grown with the lean and there are no signs of active movement or progressive leaning of the tree. Given this I believe the tree is not an immediate risk to persons and property in the immediate vicinity.

4.3. Members should consider this Statement of Case when considering whether to confirm the TPO.

## 5. Conclusion

5.1. It is recommended that the provisional Tree Preservation Order at Tealby, 78 Lower Street, Horning is confirmed.

Author: Kate Knights

Date of report: 27 September 2023

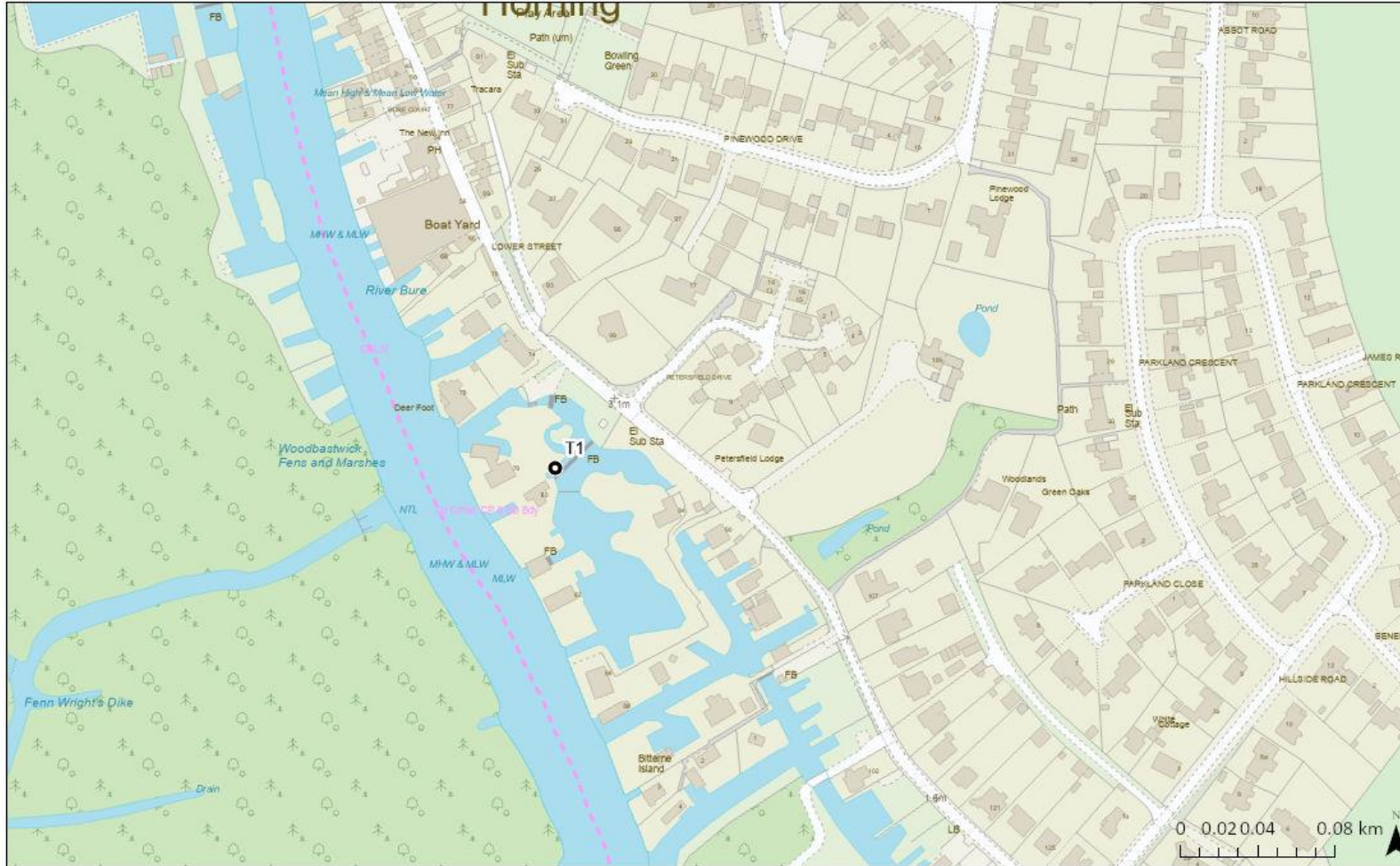
Background papers: TPO (BA/2023/0011/TPO) file and Tree works application file (BA/2023/0177/TCAA)

Appendix 1 – Location map

# Appendix 1 – Location map

BA/2023/0011/TPO

Scale: 1:2,500



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